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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,145	02/27/2004	Christophe Preguica	Q79956	4599

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EXAMINER	
ZHANG, SHIRLEY X	
ART UNIT	**PAPER NUMBER**
2144	

MAIL DATE	DELIVERY MODE
09/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/787,145	**Applicant(s)** PREGUICA ET AL.	
	Examiner SHIRLEY X. ZHANG	**Art Unit** 2144	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2144

Continuation of 11. does NOT place the application in condition for allowance because:

1. Examiner wrote in page 5 of the final rejection and reiterates here that Draves expressly disclosed all limitations of claim 1 including "sequencing a plurality of addresses as a function of said IPv6 address of the first network element" and "putting IPv6 addresses associated with said second network element in the order of the sequence in said response (Draves, section 6, "Destination Address Selection", Rules 4, 5 and 7), except for the limitation that said sequencing is performed by the domain name server.

Although the limitation "said sequencing is performed by the domain name server" was not expressly disclosed by Draves, it was disclosed by Kavanaugh in Fig. 2, column 2, line s1-27, column 7, lines 45-59 and column 9, lines 9-19. The fact that Kavanaugh expicitly disclosed using a DNS server to selection and on a server node to sequence a list of addresses is sufficient to cover what was not explicitly disclosed by Draves.

2. Applicant's remark that "Moore fails to teach or suggest a DNS server" is considered unpersuasive.

First of all, what is not expressly disclosed by Draves is whether the sequencing/selection of IP addresses is done on a server or a node. Therefore, to motivate one of ordinary skill in the art to combine Draves and Kavanaugh, Moore merely needs to suggest using a server to choose address. Moore does not have to teach or suggest a DNS server.

Secondly, as Examiner pointed out in page 6 of the Final rejection, Moore's disclosure of "getaddrinfo address ordering" in the subjet line of the email thread combined with the statement "I believe what you need is some (dynamic) server selection method" would have lead one of ordinary skill in the art to conclude that Moore suggested the domain name resolution be done on a server, i.e., a domain name server as recited in claim 1. As neither the claims nor the specification of the present application specifically defines a domain name server, examiner interprets it to be any server that resolves domain names. Therefore, Moore does teach/suggest a domain name server that anticipates the domain name server in claim 1.